



Deposition of:
Brenda Philemon Simpson

May 24, 2021

In the Matter of:
**Flowers, Jobbiev. Electrolux North
America, Inc**

Veritext Legal Solutions
800.743.DEPO (3376) | Calendar-carolinas@veritext.com |
www.veritext.com

1 this -- in this lawsuit?

2 A. I do not recall the time frame.

3 Q. Do you recall when you last read the
4 complaint in this lawsuit?

5 A. No, ma'am.

6 Q. Do you know Jobbie Flowers?

7 A. Yes, ma'am.

8 Q. How do you know Jobbie?

9 A. Jobbie worked at Electrolux with me.

10 Q. Did Jobbie at one point report directly to
11 you?

12 A. Yes, ma'am.

13 Q. And you never put Jobbie on a performance
14 improvement plan; is that true?

15 A. That's true.

16 Q. And you never gave Jobbie below a meets
17 expectations evaluation; isn't that true?

18 A. That's true.

19 Q. Do you know Kopal Rawat?

20 A. Yes, ma'am.

21 Q. Who is Ms. Rawat?

22 A. She is a manager that is on my IT leadership
23 team.

24 Q. Did you hire Ms. Rawat?

25 A. Yes, I did.

1 being treated differently, didn't he?

2 A. He asked to have -- he asked to have a
3 mediator because there was concerns on their
4 communication.

5 Q. How is it that you believe it's only about
6 their communication?

7 A. I'm sorry. Can you repeat the question?

8 Q. Yeah. You've testified twice that you
9 believe that the only reason Mr. Flowers was asking for
10 a mediator or you had any knowledge of any concerns
11 regarding Mr. Rawat and Ms. Flowers -- or, I'm sorry,
12 Mr. Flowers and Ms. Rawat was because of communication.
13 What do you mean by that?

14 A. I mean that Jobbie raised a concern that --
15 that he would like a mediator, and he and I had a verbal
16 discussion on the concern.

17 Q. What do you recall about that verbal
18 discussion on the concern?

19 A. That he was frustrated with Kopal requesting
20 details on weekly status and things such as that.

21 Q. What else do you recall?

22 A. I recall that the conversation ended well in
23 that we had a discussion on him being concerned and that
24 he had mentioned a mediator, and I had explained the
25 response that, you know, can I understand more about the

1 you saying?

2 A. The first few months. I'm sorry. I'll speak
3 slower.

4 Q. The first few months of managing Jobbie,
5 okay.

6 A. The first few months, yes, ma'am.

7 Q. So in early 2019, Ms. Rawat complained to you
8 about Jobbie; is that correct?

9 A. That's not what I'm saying. I'm not saying
10 that she complained to me about Jobbie. What I'm saying
11 is that during one-on-ones, any manager would bring up
12 their interactions with their employees and if there's
13 things that they're working on from a coaching
14 perspective with their employee. I'm not suggesting she
15 complained about him. I'm explaining that she -- it
16 would have come up in conversation if there was
17 something that she felt like she was coaching an
18 individual on. Jobbie came up in one of those
19 conversations.

20 Q. Okay. What do you recall about Jobbie coming
21 up in one of those conversations?

22 A. The concern of understanding -- understanding
23 exactly what he was working on so that she could help
24 prioritize. And when asking the question, that Jobbie
25 seemed a little frustrated to provide the information

1 and reluctant to provide the information.

2 Q. Anything else?

3 A. No.

4 Q. Did Ms. Rawat ever complain to you that
5 Mr. Flowers had been aggressive towards her?

6 A. From a behavioral standpoint, there was
7 concern of -- of tone and frustration and providing
8 some, I would say aggressive feedback.

9 Q. Who's providing aggressive feedback?

10 A. Jobbie.

11 Q. To Ms. Rawat?

12 A. Yes.

13 Q. And had Jobbie ever provided aggressive
14 feedback to you?

15 A. Yes.

16 Q. When?

17 A. When I managed him directly in 2017 and 2018.

18 Q. All right. Describe what you mean
19 by "aggressive feedback."

20 A. Frustration with being questioned, raised
21 tone. Negative, not positive feedback. Things such as
22 that.

23 Q. Did you ever write up Jobbie or put him on a
24 performance improvement plan for being frustrated with
25 being questioned or negative, not positive feedback?

1 A. No, I did not.

2 Q. And are there any witnesses that you can
3 recall witnessing Jobbie being negative or frustrated?

4 A. Yes.

5 Q. Who?

6 A. Roy Harris.

7 Q. Could you spell those for the court reporter,
8 please?

9 A. Yes. R-O-Y, Harris, H-A-R-R-I-S. Robert
10 Kean, R-O-B-E-R-T, K-E-A-N.

11 Q. Anyone else?

12 A. Can you repeat the question?

13 Q. I'm asking you who else -- you said that
14 Mr. Flowers had -- had been frustrated with being
15 questioned and had a raised tone and that he had -- was
16 negative, not positive. I'm asking you who witnessed
17 Mr. Flowers other than you engaging in the descriptive
18 behavior you just testified about?

19 A. Yeah. Thank you. Ravi Doshi, R-A-V-I,
20 D-O-S-H-I. And that's -- that's all that I can recall.

21 Q. And how many times did -- well, strike that.
22 What's Mr. Harris' race?

23 A. He is a white male.

24 Q. What is Mr. Kean's race?

25 A. He is a white male.

1 Q. What is Mr. Doshi's race?

2 A. He is of Indian descent.

3 Q. And how many times did any of these witnesses
4 witness the behavior you just testified about?

5 A. I can't answer how many times they witnessed
6 it themselves.

7 Q. Well, I think -- let me back up. You
8 testified that you saw Mr. Flowers being frustrated with
9 feedback and negative, not positive. And I asked you
10 who witnessed that, and you gave me a list of three
11 people. So help me understand the circumstances that
12 you're so sure they witnessed this behavior.

13 A. Sure. There would be team meetings that
14 Jobbie was a part of, and these were various team
15 members on the team. And there were -- there were
16 various times where these individuals would raise a
17 concern directly to me of -- of Jobbie's behavior in
18 speaking with the team during team meetings or being
19 frustrated with being asked a question. And so they
20 would raise that to me. I wasn't necessarily in those
21 meetings when -- the ones that they would escalate to
22 me, they would bring those to me outside of the meeting
23 and ask for assistance.

24 Q. You said that's in 2017 and '18, correct?

25 A. Yes.

1 Q. You never wrote Mr. Flowers -- you never put
2 Mr. Flowers on a performance improvement plan of any
3 sort regarding any of the behavior you just testified
4 about, correct?

5 A. Yes, correct, I did not put him on a
6 performance improvement plan for that because we did
7 continual coaching. When those situations would come
8 up, Jobbie and I would have a one-on-one and we would
9 have discussion regarding the situation. The
10 discussions would end in a positive way. It was -- and
11 then the behavior would stop for a period of time, and
12 then it would come back and we would have the
13 conversation again. It was very inconsistent. During
14 that time it required extra coaching. But to answer
15 your question, I did not put him on a PIP.

16 Q. And you never mentioned any of this in any of
17 his performance evaluations, correct?

18 A. I wouldn't agree with that.

19 Q. What do you recall about any written feedback
20 you gave to Mr. Flowers regarding your testimony?

21 A. What I would put in the performance
22 appraisals would be things such as continue to work
23 on -- I can't remember specific wording, but continue to
24 work on relationships with peers, continue to work on
25 delivering messages in a positive way. It would be

1 things such as that because I -- because as I mentioned,
2 it -- it was very inconsistent.

3 There would be -- the behavior would -- would
4 show and then we would have great coaching sessions, and
5 then the behavior would go away for a temporary period
6 of time and then it would come back. So the wording in
7 the performance appraisal would be -- I would have put
8 something similar to "continue to," things like that.

9 Q. Have you reviewed any of Mr. Flowers's
10 performance appraisals in preparation for today's
11 deposition?

12 A. Yes, I have glanced at them.

13 Q. What years did you glance at?

14 A. 2017 and 2018.

15 Q. Any other years?

16 A. No.

17 Q. Are you aware that Ms. Rawat put -- strike
18 that.

19 I think you testified that the first
20 conversation you recall having with Ms. Rawat was in the
21 fall of 2019 regarding putting Jobbie on a PIP; is that
22 correct?

23 A. No, that's not correct.

24 Q. Okay. When do you first recall having a
25 conversation with Ms. Rawat about putting Jobbie on a

1 A. I did not.

2 Q. Anyone else complain to you about

3 Mr. Flowers?

4 A. None other than I've mentioned --

5 Q. All right.

6 A. -- before.

7 Q. You had said that Robert Kean who is a white
8 male, correct?

9 A. Correct.

10 Q. Mr. Harris ever complain to you about
11 Mr. Flowers?

12 A. Yes.

13 Q. When?

14 A. It would have --

15 Q. Let me be clear. When I say to you, came to
16 you directly --

17 A. Yes.

18 Q. -- one-on-one with just you, not through
19 Kopal, one-on-one with you. Do you understand that?

20 A. Yes, I do.

21 Q. When did Mr. Harris complain to you about
22 Mr. Flowers?

23 A. Fall 2017.

24 Q. Okay. So no time in 2019; is that correct?

25 A. Correct.

1 Q. Yeah. Madam Court Reporter just read it back
2 to you, Ms. Simpson. Are you -- are you able to hear
3 me?

4 A. I am able to hear you, but I -- I'm sorry.

5 Q. You've testified a couple times, you said you
6 recalled having one one-on-one. Now you've said it's
7 more one-on-ones. Okay. And earlier I asked you
8 whether or not you recall Mr. Flowers expressly telling
9 you during a one-on-one meeting that he believed
10 Ms. Rawat was treating him differently because he's
11 black. You said you don't recall Mr. Flowers telling
12 you that.

13 Now you've told me about more meetings you
14 had with Mr. Flowers, that you don't recall the time and
15 date and how often. And I'm asking you, in all of these
16 meetings that you allegedly had with Mr. Flowers, is it
17 your testimony that he still never said anything to you
18 that Mr. Flowers (sic) was treating him differently
19 because he's black?

20 A. Yes, ma'am.

21 Q. You used the word "discriminate." I didn't
22 use the word "discriminate." So I'm asking you, isn't
23 it true that Mr. Flowers told you he believed he was
24 being treated differently by Ms. Rawat because he's
25 black?

1 can't recall a specific -- a specific list of projects.
2 It would have been -- it would change with the time.

3 Q. And again, you never had any issues with
4 Jobbie leading a team, correct?

5 A. I had issues with Jobbie and treatment of
6 team members and the way he would discuss things and
7 behavior with team members as he was a team lead.

8 Q. Okay. Have you told me all of the instances
9 you can recall about any treatment of team members that
10 you had issues with?

11 A. No.

12 Q. Okay. What other instances do you recall?

13 A. I recall there was a -- an issue with Robert
14 Kean. This is when Jobbie was -- Jobbie and Rob were
15 reporting directly to me, which would have been prior to
16 Kopal coming to Electrolux. And there were some issues
17 with -- it was issues with interaction between the two.

18 And there were -- it was Rob was working on a
19 project. I can't remember the specific project, but
20 Rob -- Rob was working on a project and -- and there
21 were complaints of the way that Jobbie spoke to him on
22 that project and when he was late and delinquent on
23 delivering some task and some interaction there.

24 Q. And Rob reported to Jobbie; is that correct?

25 A. No.

1 Q. Okay. And do you have any notes about this
2 conversation you allegedly had with Rob about Jobbie?

3 A. No.

4 Q. Did you write Jobbie up and do any type of
5 performance, written performance counseling as a result
6 of Rob's complaint?

7 A. No written performance counseling.

8 Q. Did you put him on a performance improvement
9 plan?

10 A. No, ma'am.

11 Q. Did you in any way document any -- any of the
12 alleged complaint that you just testified about with
13 Rob?

14 A. No. It would have been through coaching and
15 I had one-on-one -- it was through coaching and
16 one-on-one sessions that I had frequently with Jobbie.

17 Q. Okay.

18 A. As at that time he reported directly to me.
19 So we would have a regular cadence of one-on-ones during
20 that time period.

21 Q. Okay. Anything else?

22 A. Not that I can recall.

23 Q. So just to confirm, you did not hire Jobbie,
24 correct?

25 A. That's correct.

1 Electrolux prior to Ms. Rawat; isn't that true?

2 A. It's true that he had not been placed on a
3 performance improvement plan. It is not true that he
4 did not have performance issues here and there that
5 required coaching.

6 Q. Okay. Coach -- would you agree with me,
7 coaching and being put on a performance improvement plan
8 are two different things?

9 A. Yes, ma'am.

10 Q. And again, Mr. Rawat -- Mr. Flowers had never
11 been put on a performance improvement plan by any
12 manager prior to Ms. Rawat, correct?

13 A. Correct.

14 Q. Again, coaching doesn't lead to termination,
15 does it?

16 A. Correct.

17 Q. Performance improvement plan is the first
18 step that leads to termination at Electrolux, isn't it?

19 A. A performance improvement plan is intended
20 for an employee to be successful and to understand where
21 they're not performing consistently.

22 Q. Have you ever put -- have you ever terminated
23 someone who wasn't on a PIP?

24 A. Yes.

25 Q. Who?

1 improvement plan?

2 A. Because -- because during the improvement
3 plan, he was not meeting objectives that were set on the
4 performance improvement plan.

5 Q. Can you recall any other individual on your
6 team who was not given the full 90 days to improve their
7 performance once placed on plan?

8 A. Yes.

9 There was a break in the sound. I'm sorry.

10 Q. Who?

11 A. Ken Cuebas.

12 Q. Spell that name, please.

13 A. K-E-N, Cuebas is C-U-E-B-A-S.

14 Q. What's Mr. Cuebas' race?

15 A. He is -- he is from Puerto Rico.

16 Q. Why wasn't Mr. Cuebas given the opportunity
17 to work the full performance improvement plan?

18 A. He was not meeting his objectives defined in
19 the performance improvement plan.

20 Q. When was -- was Mr. Cuebas terminated?

21 A. Yes.

22 Q. When?

23 A. I do not remember the year. Approximately,
24 four years ago.

25 Q. Anyone else?

1 feedback prior to the PIP?

2 A. Not that I can recall.

3 Q. And again, I think you said that he had not
4 just rendered a complaint against his manager; is that
5 correct?

6 A. He had not.

7 Q. Anyone else you can recall?

8 A. Not that I can recall.

9 Q. Did he and Jobbie work together?

10 A. Not on the same team.

11 Q. They just worked at the same time period; is
12 that correct?

13 A. They both worked within IT at the same time
14 period, yes, ma'am.

15 Q. Okay. Tell me every deliverable that Jobbie
16 did not meet that led to his termination.

17 A. I can't give you the details of every single
18 deliverable as -- I know there were issues with -- with
19 multiple projects, with -- that he was assigned to.
20 From a SharePoint migration project was one.

21 Q. And let me -- let me ask you. I should have
22 clarified. I know Ms. Rawat complained to you. I want
23 to only know what you personally were aware of. You
24 only told me about audit, some audit reports or
25 documents that you personally say that you gave to

1 A. Yes, ma'am.

2 Q. Bates Number 2336 and until 2358. Do you see
3 that?

4 A. Yes, ma'am.

5 Q. And this appears to be an email back and
6 forth between Robert Kean and Kopal and Naomi Sinclair,
7 indicating that Mr. Kean is receiving his PIP of May 19,
8 2020. Do you see that?

9 A. Yes, ma'am.

10 Q. I'll scroll down again to the actual PIP.
11 The date on this is -- well, the first month review is
12 June 19, 2020, correct?

13 A. Yes, ma'am.

14 Q. And does this refresh your recollection that
15 Mr. Kean's PIP did not occur at all in 2019?

16 A. Yes, it does, his second PIP. I do -- he was
17 on a PIP prior to 2020.

18 Q. What --

19 A. He was on a --

20 Q. When was he on a PIP prior to 2020?

21 A. The 2020 PIP was his second performance
22 improvement plan. He successfully completed his first
23 performance improvement plan.

24 Q. But when was that?

25 A. Yeah, that, I'm sorry. Give me a second just

1 to think through the timing there.

2 Q. Wait a minute. Let me ask you. Who did he
3 report to when he was on a PIP before?

4 A. He reported to me during the PIP.

5 Q. It wasn't Kopal, correct?

6 A. Correct.

7 Q. So it had to be before 2019, correct?

8 A. Correct.

9 Q. I only want to know about 2019 and 2020. And
10 so Mr. Kean's PIP with Kopal happened after Jobbie had
11 been fired by Kopal, correct?

12 A. Correct.

13 Q. Madam Court Reporter, I'm going to have to
14 give that one an exhibit number at the end. So I'm just
15 going to give myself a note to give you an exhibit
16 number for the one I just showed because it was out of
17 order.

18 Okay. I'll show you another document. If we
19 go back to Exhibit 5 to your deposition, were you aware
20 that Alexa Moor had sent Kopal a PIP template on
21 July 24th, 2019?

22 A. I don't recall that specifically.

23 Q. Do you know if Ms. Moor had spoken with
24 Jobbie at all prior to July 24th, 2019, at 2:54 p.m.?

25 A. I don't know if she had.

1 you're answering things that are not my question. So
2 you're going to make this a much longer day than
3 necessary, okay, Ms. Simpson. Do you recall asking HR
4 to send a template of any sort regarding Jobbie Flowers?

5 A. I do not recall that.

6 Q. Ever? Is that accurate, ever?

7 A. I do not recall that.

8 Q. Do you recall asking Alexa Moor to send
9 Ms. Rawat a performance improvement plan template
10 regarding any other employee on the week of July 22nd?

11 A. I do not recall.

12 Q. And you're -- already testified that other
13 than Robert Kean who was put on a PIP in 2020, Ms. Rawat
14 had no other employees on a performance improvement
15 plan, correct?

16 A. Correct.

17 Q. Did you re -- ever ask anyone to this day,
18 not back then, now as to why Ms. Rawat was getting a
19 copy of a performance improvement plan from Ms. Moor
20 three days after -- within five days of Jobbie
21 indicating he wanted to go to HR to complain about her?

22 A. No.

23 Q. I'm going to show you what the attachment is
24 that is Exhibit 6. Have you ever seen this document
25 before? Let me tell you the Bates numbers. It is Bates

1 Did you receive this invite that Jobbie had sent Kopal
2 requesting a mediator?

3 A. I do recall seeing this. I'm not sure if it
4 was as an invite or an email to me, but I do recall
5 seeing this.

6 Q. Do you recall who sent you the email?

7 A. I believe it was Jobbie.

8 Q. Why do you believe it was Jobbie?

9 A. I believe -- I believe he forwarded me an
10 email.

11 Q. Okay. So do you recall seeing an email where
12 Jobbie had said, "I was the chairperson for the
13 diversity inclusion network at Hewitt for years. Also,
14 as you know, I'm a community activist in both
15 Mecklenburg and Forsyth Counties, so I have experience
16 handling these types of situations." Do you recall
17 seeing -- receiving an email from Jobbie with that
18 language in it?

19 A. Yes.

20 Q. Did you have an understanding as to what he
21 meant by "these types of situations"?

22 A. I know related to communication issues and
23 conflicts, is my understanding of what he meant by the
24 email.

25 Q. What does "diversity inclusion" mean to you?

1 A. Diversity inclusion is -- excuse me, I need
2 to plug my power in. I'm not going to go anywhere. I
3 just need to grab my power plug. Sorry. It just buzzed
4 at me.

5 Q. Yeah, if you'll go ahead and answer that
6 question. Then I'll take a break and you can plug in
7 your computer.

8 A. Oh, I'm sorry. I didn't realize -- I
9 actually plugged it in. I apologize.

10 Diversity inclusion, what that means to me
11 is, is ensuring that -- that we broaden our resource
12 pool and ensure that we include race, culture,
13 religions, gender. It is making sure that we have a
14 broad pool of resources and we treat them the same.

15 Q. Ms. Simpson, you got an email from Jobbie in
16 September of 2019 where he's asking for a mediator with
17 his manager, correct?

18 A. Correct.

19 Q. In that same communication, Jobbie is
20 referring to diversity inclusion and indicating that he
21 needs a mediator because of these types of situations,
22 correct?

23 A. Correct.

24 Q. You didn't at all think that this was about
25 his race when you received this?

1 A. I did not.

2 Q. Again, you didn't do anything to find out
3 either, did you? You didn't go and ask Jobbie, are you
4 having any issues as it relates to your race with
5 Ms. Rawat, did you?

6 A. I did not.

7 Q. That's because Jobbie had told you repeatedly
8 he believed that Ms. Rawat was treating him differently
9 because he's black, isn't it?

10 A. That's not true.

11 Q. You knew when you received this email that
12 Jobbie was sending it, trying to find a solution because
13 he was being treated differently because of his race by
14 Ms. Rawat, didn't you?

15 A. No, that's not true.

16 Q. You didn't do anything, though, at all to
17 confirm either way; you didn't do anything to have
18 Ms. Rawat investigated to see if she had any kind of
19 bias whatsoever against Mr. Flowers because he's black,
20 did you?

21 A. I engaged HR with this email, and I also met
22 with Jobbie directly.

23 Q. You engaged HR by sending them an email. Did
24 you go and ask HR to investigate Ms. Rawat because --

25 A. I --

1 started, correct?

2 A. Not since the day she started. I know it was
3 early on with her taking over the team, and she began in
4 January of 2019. I don't know the exact timing, so I
5 can't say it's the day she started, but I know it was
6 earlier on.

7 Q. So you indicated that you thought Dan should
8 become involved. Is it simply because Alexa was
9 leaving?

10 A. Yes.

11 Q. Even though you knew that Jobbie was seeking
12 a mediator and had expressly reached out to you
13 regarding the same?

14 A. Yes. And that's because I was out of town at
15 this time frame and wanted to see if someone could
16 connect with Jobbie before I returned.

17 Q. Do you know anybody did?

18 A. I don't know.

19 Q. And did you do anything to find out if anyone
20 did?

21 A. I connected with Jobbie when I returned, but
22 I did not -- I don't know. I don't recall following up
23 with -- to see if someone else did.

24 Q. You're kind of loose when you talked to
25 Jobbie and didn't. Do you have any documents or notes

1 Q. Okay. Were you in a room where Naomi asked
2 Jobbie to review the PIP again?

3 A. Not that I recall.

4 Q. Tell me every instance you recall meeting
5 with Jobbie after the PIP was issued.

6 A. I remember speaking to Jobbie regarding the
7 request for mediator when I returned from out of town.

8 Q. Wait a minute. Okay. So come on,
9 Ms. Simpson, I'm going to have to go back and forth. Do
10 you recall the timing of the request for a mediator?
11 I'll show it to you again. You just saw the September
12 emails.

13 A. Yes.

14 Q. Okay. When was the PIP issued?

15 A. I believe it was issued in October.

16 Q. So you think in October of 2019?

17 A. October/November.

18 Q. So between September, it was September of
19 2019 when Jobbie asked you to get a mediator to help him
20 with Ms. -- Ms. Rawat's discrimination; isn't that true?

21 A. Jobbie asked for a mediator in September of
22 2019. We had a conversation following that within the
23 week of my return. And that request was no -- after
24 that meeting, he did not request a mediator. He felt
25 like after that conversation, he felt like that he -- he

1 did not ask for a mediator. He felt like that he could
2 progress forward and they would work better together and
3 he would communicate, and so the request for mediator
4 ended at that point. It did not come back up.

5 Q. Ms. Simpson, isn't that not true? I mean,
6 isn't it -- isn't it true when Jobbie asked for a
7 mediator, you denied it? You said, we can't staff with
8 a mediator. We don't have enough people to do that;
9 isn't that true?

10 A. I -- I did explain to Jobbie that we're not
11 staffed to have a mediator in every manager and employee
12 meeting, and to explain to me kind of what was going on.
13 And we had that discussion, and we ended the
14 conversation with -- with a path forward.

15 Q. So stop there. You had denied the mediator
16 before you even knew what he needed it for. Is that
17 your testimony?

18 A. No. That's not my testimony.

19 Q. You didn't -- you didn't open a mediator
20 option up with open arms and say, Jobbie, we'll get you
21 whatever you need to help make this work. You said, we
22 can't afford a mediator, we don't have enough people for
23 a mediator, you know, tell me what's going on. Isn't
24 that true?

25 A. I -- yes, I expressed that we -- we do not --

1 team -- her team individually to find out if there was
2 anything you weren't aware of or that you needed more
3 information on as it relates to how she was treating
4 Jobbie?

5 A. No.

6 Q. She didn't have any other African Americans
7 on her team, correct?

8 A. No.

9 Q. Was Mr. Flowers replaced with an African
10 American employee?

11 A. We have not replaced that -- a team member,
12 his position on the team.

13 Q. Does Mrs. Rawat have any African American
14 employee reporting to her currently?

15 A. No.

16 Q. Okay. I need to take a 10-minute break. I
17 need to make a call. So let's take ten minutes and,
18 we'll come back on at 5 till. Does that work?

19 A. Yes, ma'am.

20 (Recess taken 10:43 a.m. to 11:00 a.m.)

21 BY MS. GESSNER:

22 Q. Okay. Back on the record, 11:00 a.m. And as
23 a reminder, you're still under oath. Do you understand
24 that, Ms. Simpson? Okay.

25 A. Yes.

1 A. Jobbie's performance -- and I want to clarify
2 "changed." So I had similar situations when I -- when
3 Jobbie reported directly to me --

4 Q. Ms. Simpson --

5 A. -- on --

6 Q. -- but they never rose to the level of you
7 writing him up, correct?

8 A. Right.

9 Q. Okay. So you didn't at all discipline Jobbie
10 or threaten his job in any way until after he was
11 working for Ms. Rawat and she wanted to terminate him,
12 correct?

13 A. She wanted to put him on a performance
14 improvement plan to improve his performance because it
15 wasn't consistent. The change was the consistency of
16 not meeting deadlines and things such as that.

17 Q. When did you first become aware that
18 Mr. Flowers was suffering some issues related to his
19 diabetes causing him to be out of work some?

20 A. I was not aware that Jobbie was suffering
21 issues from diabetes while he was employed here.

22 Q. And so never -- it's your testimony that not
23 one time while you were talking to Jobbie did he mention
24 to you that he was a diabetic?

25 A. Not that I recall.

1 the specific date, but it was the beginning of November
2 I believe.

3 Q. There was one follow-up meeting on
4 December 9th; is that accurate?

5 A. Formal follow-up meeting. There's typically
6 one per month on those. And then, but there are weekly
7 one-on-ones with the individual and their direct manager
8 and -- and HR typically.

9 Q. Okay. So the -- so the one-on-ones do not
10 always have HR in every meeting; is that accurate?

11 A. A lot of times they do. I can't say that
12 it's 100 percent that HR is there, but it's a large
13 majority.

14 Q. Are you --

15 A. If not all.

16 Q. Can you swear under oath that Mrs. Sinclair
17 or any member of HR attended all of Mrs. Rawat's
18 follow-ups with Mr. Flowers?

19 A. I can't because I -- I was not in attendance
20 of all the -- the weeklies, so I can't say that she made
21 100 percent of them or not.

22 Q. What were you in attendance for as it related
23 to the follow-ups with Mr. Flowers?

24 A. The formal, the formal one-on-ones.

25 Q. As of January 3rd, there was only one formal

1 A. Yes, ma'am.

2 Q. What do you recall, if anything, about the
3 follow-up meeting on December 9th?

4 A. I mean, I recall Kopal going through the PIP
5 document, and it had what the original objectives of the
6 performance improvement plan were and then a measure on
7 how Jobbie was tracking toward those objectives --

8 Q. And how was he doing --

9 A. -- and there were -- there were some
10 deficiencies. I can't remember the specific which ones.
11 And it's documented in that -- in the documentation that
12 was reviewed during that day, but there were still some
13 deficiencies.

14 Q. Was there no improvement at all?

15 A. I don't have the document in front of me, but
16 there was a significant amount of deficiencies
17 remaining.

18 Q. Okay. Again, I know you don't have the
19 document in front of you, but do you recall anything
20 about Mr. Flowers' improvements?

21 A. I do not.

22 Q. Do you recall anything about the deficiencies
23 that you say were many and were still missing?

24 A. I remember in -- I remember -- between the
25 two, I can't remember exactly which one was in which,

1 but I remember there were -- there were deadlines that
2 were explicitly set to -- to do some hand-over related
3 to CAB and getting some documentation together for the
4 CAB meetings. I remember, I believe there were some
5 SharePoint migration deadlines that were not met with
6 user stories. And yeah, there were -- there were a few
7 things that were gone through.

8 Q. And all the things you just testified about
9 were feedback that Mrs. Rawat was giving, correct?
10 Given -- giving Jobbie, correct?

11 A. Yes.

12 Q. You didn't check behind to see if Mr. Flowers
13 had missed the CAB hand-over or the SharePoint deadline
14 or anything that Ms. Rawat had written down, did you?

15 A. I didn't check behind, but sitting in the
16 meetings, it was not disputed that it wasn't delivered
17 by Jobbie.

18 Q. What do you mean "it wasn't disputed"?

19 A. During -- during the meeting, you know,
20 during the meeting she went through the, here's a
21 deadline, you know, X, Y, Z. And here is -- and you did
22 not deliver on this deadline. And so it wasn't that
23 that wasn't -- was said to be inaccurate by Jobbie
24 during those meetings. But to answer your question, I
25 did not go behind and check the work.

1 that you showed that I have explained that I had not
2 seen.

3 Q. Okay.

4 A. Or read.

5 Q. And on the exhibit in front of you where the
6 period was being extended for two weeks, again I think
7 we were talking about December 9th. Do you recall
8 anything else about the meeting on December 9th other
9 than what you've already told me?

10 A. I do not.

11 Q. Did you believe it was a positive meeting?

12 A. I mean, I -- I believe that it ended in a --
13 I think there were -- there were things to work on, for
14 Jobbie to work on, but I -- I believe it ended in a way
15 that he was fully aware of that and willing to go do
16 that. So depends on, I guess, your definition of
17 "positive," but I feel like it ended in a clear way
18 where everyone understood the expectations going
19 forward.

20 Q. Have you read Naomi Sinclair's deposition
21 transcript?

22 A. No, ma'am.

23 Q. As of Monday, January 6th, we are about less
24 than 60 days into the PIP period; is that accurate?

25 A. It's right at, right at 60 I guess, yeah.

1 Q. And Mrs. Rawat is informing Jobbie that she's
2 going to extend the evaluation period by two weeks;
3 isn't that accurate?

4 A. That she's going to extend that second
5 meeting by two weeks, is how I'm interpreting this, the
6 second follow-up meeting.

7 Q. Okay. I'm going to show you another
8 document. And were you aware that Jobbie had to -- had
9 a medical event in January of 2020?

10 A. I am not sure.

11 Q. Okay. I'm showing you -- --

12 A. I'm not sure.

13 Q. -- Bates Number 83416 and --

14 A. Okay.

15 Q. -- 83417.

16 A. Okay.

17 Q. Do you see the email from Jobbie to Kopal
18 saying that he needs to leave, he has an appointment at
19 2:00, and he'll bring a note from a doctor? Do you see
20 that?

21 A. I do.

22 Q. And as of Monday, January 13th, Kopal had not
23 had a second follow-up meeting with Jobbie, had she? A
24 formal follow-up to the PIP meeting; is that accurate?

25 A. She had not had the formal follow-up, but she

1 A. The decision, so she brought a recommendation
2 to myself, and then she and Naomi and I had a
3 conversation. It was following that meeting. And I
4 would suggest it was -- wasn't necessarily -- I don't
5 think it was the following week. I think it was the
6 week after. And so gave -- she gave feedback of, you
7 know, the objectives and what had been met, what had not
8 been met, some concerns that came out of that meeting,
9 she and Naomi. And so we had a discussion. And so the
10 decision was made --

11 Q. So --

12 A. -- among the three --

13 Q. Ms. Simpson, I didn't ask you for the history
14 of when and where. I simply asked you what was the date
15 that Mrs. Rawat made the decision to terminate Jobbie.
16 That's a -- that's a simple question. So do you --

17 A. I understand --

18 Q. Do you know the date that Mrs. Rawat made the
19 decision to terminate Jobbie?

20 A. Again, the reason I'm clarifying is because
21 it's a recommendation that she makes. It's a decision
22 -- it's not a decision -- that's why I'm clarifying.

23 Q. I think that you're clarifying that because
24 you all want to include Naomi in the decision because
25 she's black. So let me break it down. Could Naomi --

1 did Naomi Sinclair decide to terminate Jobbie Flowers on
2 her own by herself?

3 A. No.

4 Q. Okay. Did you decide to terminate Jobbie
5 Flowers on your own by yourself?

6 A. No.

7 Q. Who was closest to -- well, strike that.
8 Who had the majority of one-on-one meetings
9 spent with Jobbie Flowers, you or Mrs. Rawat?

10 A. During the performance improvement plan --
11 during 2019, it would be -- it would be Kopal.

12 Q. And the recommendation to terminate came from
13 Kopal. Isn't that your testimony?

14 A. It actually came to me from both, Kopal and
15 Naomi in a meeting.

16 Q. Okay. And again, you didn't do anything
17 independent to go and speak with Mr. Flowers about what
18 happened at that meeting at all, did you?

19 A. I did not because there was a manager and HR
20 present, so I did not.

21 Q. And a manager who you knew that Jobbie had
22 already been complaining about for months about how he
23 was being treated, correct?

24 A. Again, Jobbie had submitted two email
25 complaints, and both were addressed at the time, and

1 both had conversations with Jobbie. I had a
2 conversation with Jobbie, and it was, we're going to
3 move forward, he's going to do his part. So it wasn't
4 an open --

5 Q. Ms. Simpson, Ms. Simpson, that's your word
6 against his, isn't it? About what you said and he said
7 during this once or twice meeting that you can recall?
8 I mean, his testimony is, he told you repeatedly he was
9 being treated differently because he was black by
10 Ms. Rawat. And are you refuting that testimony?

11 A. Yes.

12 Q. And again, you didn't do anything to make
13 sure that an investigation occurred of Mrs. Rawat after
14 you learned that Jobbie believed he was being treated
15 differently because he was black, did you?

16 A. I did not learn that, so no, I did not open
17 an investigation.

18 Q. Did you ask Naomi to even ask Mr. Flowers if
19 he believed he was being treated differently because he
20 was black?

21 A. I did not.

22 Q. So when did you first learn that Mrs. Rawat
23 was making the recommendation to terminate Jobbie?

24 A. It would have been the week prior to the
25 January 22nd meeting.

1 we have an audit, and various people are responsible for
2 providing input or documentation that is submitted for
3 audit. And so it's an audit coordination role.

4 Q. So just to be clear, it's your testimony you
5 never promoted Mr. Flowers or gave him any increased
6 responsibility; is that true?

7 A. I never promoted Jobbie.

8 Q. Okay. Did you give him any increased
9 responsibility because of his performance?

10 A. No.

11 Q. And you never gave Mr. Flowers a needs
12 improvement -- I'm sorry, a needs improvement or any
13 kind of rating on a performance evaluation below meets
14 expectations, correct?

15 A. Correct. He had meets expectation.

16 Q. And he was meeting expectations prior to
17 Mrs. Rawat becoming his manager, correct?

18 A. He was rated as meets expectations and during
19 those conversations and there -- there -- there are five
20 different levels of a rating for performance review, and
21 meets expectation is the one in the middle. And so --
22 and he -- during the two years that I managed him, the
23 performance was inconsistent in that -- in that it
24 would -- it would be good. It would require some
25 coaching. It would be good. It would require some

1 coaching.

2 And so that -- that leveled out to meets
3 expectations, where I know as before he had reported
4 that he had had higher ratings from previous management.

5 Q. Did you ever look at his performance
6 evaluations to see how prior managers had rated him?

7 A. I took his word for how they had rated him,
8 but just keeping in mind that the performance evaluation
9 yearly is based on that year performance specifically.

10 Q. And once Mrs. Rawat came on the scene, you
11 also never pulled his evaluations to see if there was
12 any prior concerns or issues because you'd just been
13 supervising him the last two years, correct?

14 A. I didn't understand the question. Can you
15 say that again?

16 Q. Did you at any point in time in 2019 or 2020
17 look at Mr. Flowers' prior performance evaluations?

18 A. No.

19 MS. GESSNER: That's all the questions I have
20 for now.

21 THE WITNESS: Okay.

22 MR. ALEXANDER: I've got -- I've got just a
23 couple for you, Ms. Simpson.

24 EXAMINATION

25 BY MR. ALEXANDER: